THE NATURE OF A Common-Hall BRIEFLY STATED, WITH

An Account in whom the Power and Authority doth there Reſide.

THERE is enough ſaid in ſome former Papers, to Demonſtrate that upon the ſuppoſition of the *Common-Halls* being a Court, yet it is wholly different, and altogether of a diſtinct Nature from the Court of *Huſtings*. And therefore all that now remains, is to enquire whether it be at all properly a Court, and whether there be any one perſon peculiarly veſted with an Authoritative and Judicial power in and over that Aſſembly. And as it is no where ſtiled a Court, ſave in the common-talk of ſuch as have not ſearched into theſe things, ſo it contradiſtinction from a Court it is ever called in Books and Records an Aſſembly, a *Congregation Conventio communitatis*, and the like. Beſides it exerciſeth no one Act of Juriſdiction, Adminiſters no Oath, gives no Judgment, but meerly Aſſemble, in order to the doing ſome particular Act, as a Pariſh that meets to chuſe Officers, or a Burrough that conveens to elect Parliament men, And conſeequently it hath no Judg in a proper ſenſe belonging unto it, but even the very Sheriffs to whom the conducting and managing things in that Aſſembly have allways appertained, are only miniſterial Officers: And to ſpeak as men rationally ought, they are only the Mouth of the Convention to propoſe the Queſtions, and the Miniſters to gather the ſuffrages and to declare the ſenſe of the Majority. And therefore as my

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my Lord *Mayor* hath nothing ſo much as in the quality of a miniſterial Officer to do there, but's only preſent as an honourable member; ſo even the *Sherriffs*, have no Authority to Adjurn or Diſſolve the Convention without the *explicite*, or at leaſt the *tacite* allowance of the Majority of the Members; which being there preſent, conſtitute the Aſſembly.

For ſhould a Power be lodged in anyone or Two Perſons, to deſolve the Hall before the buſineſs be tranſacted and finiſhed for which it is aſſembled; it would follow, that they might at their pleaſure prevent the Hall from accompliſhing and perfecting any thing that they ſhould diſlike, Tho' it were never ſo neceſſary to be done, and not only indiſpenſably needful to the Preſervation of the Peace and Welfare of the Society, but what their Charter allow them to do, and require to be performed. Yea, the ſuppoſal of ſuch a Power, in any One or Two Perſons, were to put them into a Capacity of wearying out the Aſſembly by frequent Adjournments and Diſſolutions, till by trick or ſurpriſal they might compaſs their particular Ends and Deſigns. And therefore even the *Sheriffs* who by conſtant cuſtom and immemorial uſage, have conducted and managed theſe Conventions, can yet no more Diſſolve or Adjourn them before they have done the buſineſs they meet about, without their own conſent, than the *ſpeaker* in the Houſe of *Commons*, or the *Sheriffs* in the Country Courts can Adjourn the Houſe without the conſent of the Members, or Diſſolve the Court without the leave of the Suiters. Nay, it is in the Power of the *Common-Hall* to ſubſtitute whom they pleaſe, both to propoſe the Queſtions, which they are upon, and to gather the *ſuffrages*, whereby their ſenſe and mind in thoſe matters may not only be known, but made deciſive as to what they were about. And the Guidance of a Miniſter, in this caſe is only eſtabliſhed by uſage, and meerly, for the ſake of Order, and not abſolutely neceſſary required either by Law or Charter. Accordingly in the caſe between *Turner* and *Sterling*, there was judicial opinion and determination of the Court of *Common-Pleas* and the Court of *Kings-Bench*. And *Sterlings* taking upon him, to diſſolve the *Common-Hall*, where he was not ſo much as by a uſuage a Miniſterial Officer, as well as his Offering to do it, without the conſent of the Aſſembly, was adjudged both to be a *breach of his Duty, and a violation of the Law and Cuſtom of the City*. And as the ſuffrage of a few Citizens ſignifies nothing againſt the vote of the Majority; ſo all votes for confirmation are in themſelves null and void, ſeeing the Charter doth only empower to chuſe but gives no right to confirm.

Trin. Term 23, *Car.* 2. *Rot.* 3651. *in the Common Pleas.*

So that upon the whole, as you Citizens may not underſtand your Rights, ſo none can rob you of them unleſs, they recur to Force (which I ſuppoſe they will not find it their Intereſt to do) or that you willfully ſurrender and betray them.

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